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April 11, 2025

Honorable Judge Nina R. Morrison  
United States District Court for the Eastern District of New York  
Theodore Roosevelt United States Courthouse  
225 Cadman Plaza East, Brooklyn, New York 11201

Re: *Semencic v The County of Nassau, et al.*, 18-cv-05244-NRM-AYS

Dear Your Honor:

Pursuant to your local rule 5.3.4, we are requesting permission to file a Sur-Reply to the Reply papers submitted last night, one day after the deadline, by Counsel for Plaintiff Semencic. We note that Counsel for Plaintiff opposed our request for an adjournment (ECF 124), and now requests the Court, without having made any request to us, for permission to late file his reply brief and affirmation. Without awaiting permission on his request to file "out of time", Plaintiff's counsel has already filed his Reply Affirmation and Memorandum of Law.

Unlike Counsel for Plaintiff, we do not oppose his request for an extension of time, but we do object to the fact that his affirmation is entirely reliant on conversations he claims to have had with the jurors after the trial. Those conversations, as we will show in our sur-reply papers, are totally inadmissible and therefore Plaintiff's Counsel's affirmation, if it is permitted to be filed, should be stricken as containing nothing but inadmissible recitations of alleged post-trial communications with the jurors.

The sur-reply is necessary because assuming this Court accepts the late filing, Plaintiff's Counsel has raised new issues that are clearly inadmissible. Counsel for Semencic has submitted an affirmation detailing his alleged conversations with jurors after the verdict in this case. Indeed, his argument for attorney's fees is based on what he claims the jurors told him personally after the trial. The Plaintiff's Reply Memorandum of Law is based almost entirely upon the inadmissible alleged post-trial statements of jurors and reliance on an opinion by then Southern District Court Judge Abraham Sofaer which was reversed by the Second Circuit in *Russo v. New York*, 672 F.2d 1014, 1023 (2d Cir. 1982).

The above statements are respectfully submitted to demonstrate our need to request permission to file a sur-reply.

  
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